

Notice of Allowability

Application No.

10/578,953

Examiner

Zinna Northington Davis

Applicant(s)

NANTERMET ET AL.

Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Preliminary Amendment & IDS filed May 10, 2006 and Response filed July 23, 2007.
2. ☒ The allowed claim(s) is/are 1-17 and 19 (now renumbered as 1-18, respectively).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 05/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. John Todaro on September 6, 2007.

2. The application has been amended as follows:

A. At claim 1, page 5, line 25, the phrase "(1) (R⁴-SO₂)N(R⁷)-, wherein R⁴ is" has been amended to read in favor of:

--(R⁴-SO₂)N(R⁷)-, wherein R⁴ is --.

B. At claims 1 and 10, last line, the phrase "and pharmaceutically acceptable salts thereof" has been amended to read in favor of:

--or a pharmaceutically acceptable salt thereof--.

C. At claim 11, last two lines, the phrase "wherein Y, A, R¹, R², R⁵, R^{6a}, R^{6b}, and R^{6c} and m are as defined in Claim 1; and pharmaceutically acceptable salts thereof" has been amended to read in favor of:

--or a pharmaceutically acceptable salt thereof--.

D. At claim 12, last two lines, the phrase "wherein Y, A, R¹, R², R⁵, R¹¹, R¹² and m are as defined in Claim 1; and pharmaceutically acceptable salts thereof" has been amended to read in favor of:

--or a pharmaceutically acceptable salt thereof--.

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E. At claim 14, last two lines, the phrase "wherein Y, A, R¹, R³, R⁴, R⁷ and m are as defined in Claim 1; and pharmaceutically acceptable salts thereof" has been amended to read in favor of:

--or a pharmaceutically acceptable salt thereof--.

F. At claim 15, last three lines, the phrase "m is 1; and Y, A, R², R³ are as defined in Claim 1; and pharmaceutically acceptable salts thereof" has been amended to read in favor of:

--m is 1; or a pharmaceutically acceptable salt thereof--.

G. At claim 16, last two lines, the phrase "wherein Y, A, R¹, R², R³ and m are as defined in Claim 1; and pharmaceutically acceptable salts thereof" has been amended to read in favor of:

--or a pharmaceutically acceptable salt thereof--.

H. Claim 18 has been canceled.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

3. In the Response filed July 23, 2007, applicants have elected Group I, claims 1-17 without traverse.
4. Based upon the Response filed July 23, 2007, the election of species requirement is withdrawn.
5. Based upon rejoinder practice, the invention of Group III, claim 19, has been examined with the Group I invention. Group II, claim 18, is drawn to a non-elected invention.

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6. Applicants preserve the right to file divisional applications drawn to the non-elected subject matter of claim 18.

7. The changes made by Examiner's Amendment are editorial in nature. The changes are not made to avoid possible rejections of prior art.

8. The Information Disclosure Statement filed May 10, 2006 has been considered. The references alone or in combination forms do not teach nor suggest structurally similar compounds as the invention as instantly claimed. There is no motivation to modify the prior art compounds to derive the instant claims. Accordingly, claims 1-17 and 19 are allowed.

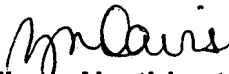
9. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zinna N. Davis whose telephone number is 571-272-0682.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Zinna Northington Davis
Primary Examiner
Group 1600-AU 1625

Znd
09.07.2007